

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 3/12/03 Item. 3.d.

File Number  
CP 02-067

Application Type  
Conditional Use Permit

Council District  
3

Planning Area SNI Neighborhood  
Central Washington

Assessor's Parcel Number(s)  
264-39-019

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: John Davidson

Location: Northwest corner of Locust Street and Willow Street

Gross Acreage: 2.12

Net Acreage: 2.12

Net Density: N/A

Existing Zoning: CN Neighborhood  
Commercial, R-2 Duplex Residence

Existing Use: Church, school, assembly hall

Proposed Zoning: No change

Proposed Use: 3,585 square foot kitchen addition to an existing assembly hall

### GENERAL PLAN

Completed by: JED

Land Use/Transportation Diagram Designation  
Public/Quasi-Public

Project Conformance:  
☒ Yes ☐ No  
☒ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: JED

North: Apartments, Duplexes

R-2 Duplex Residential, A(PD) Planned Development

East: Apartments, Duplexes

R-2 Duplex Residential, CP Pedestrian Commercial

South: Commercial and Residential Uses

CP Pedestrian Commercial

West: Apartments, Duplexes

R-2 Duplex Residential, CP Pedestrian Commercial

### ENVIRONMENTAL STATUS

Completed by: JED

☐ Environmental Impact Report found complete on  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☒ Exempt  
☐ Environmental Review Incomplete

PUBLIC AGENCY COMMENTS RECEIVED	Completed by: JED
Department of Public Works See Conditions of Approval	
Other Departments and Agencies See Conditions of Approval	
GENERAL CORRESPONDENCE	
None received	
ANALYSIS AND RECOMMENDATIONS	

## BACKGROUND

The applicant, Martha's Kitchen, is requesting a Conditional Use Permit to allow a 3,585 square foot kitchen expansion to an existing Church assembly hall (Sacred Heart Church). The assembly hall, located at 311 Willow Street, is one of several public/quasi-public uses on the Sacred Heart Church site. The 2.12 acre site, owned by the Roman Catholic Bishop of San José, is located at the northwest corner of Locust and Willow Streets. The southern half of the site is zoned CN Neighborhood Commercial and the northern half R-2 Two Family Residence.

The Zoning Ordinance requires a Conditional Use Permit (CUP) for religious assembly in both the CN Neighborhood Commercial and R-2 Duplex Residential Zoning Districts. The scope of work will also include bringing the existing bathrooms and dining area into compliance with Americans with Disabilities Act (ADA) standards, and re-striping the parking lot to maintain the existing number of parking spaces. This permit also recognizes the alternating use parking arrangement that already occurs on site.

The existing kitchen is approximately 600 square feet in area, and will be replaced with the larger kitchen as a part of the project. The amount of assembly area in the assembly hall will not change as a result of this application.

Surrounding uses are residential to the north, south, and east, with commercial and residential uses across Willow Street to the south. This is the first Conditional Use Permit for expansion of the religious assembly uses on site.

## Project Description

The kitchen expansion occurs to the west of the existing assembly hall. The existing assembly hall kitchen will be demolished. A total of fourteen parking spaces will be relocated on site by re-striping the parking lot. The parking lot is currently used jointly by Sacred Heart Church, Sacred Heart elementary school, and Martha's Kitchen. Additional perimeter landscaping will also be introduced to the parking lot as part of the project.

### **GENERAL PLAN CONFORMANCE**

The combination of uses, including a church, school, and religious assembly use are consistent with the General Plan Land Use Designation of Public/Quasi-Public.

### **ENVIRONMENTAL REVIEW**

The Director of Planning has determined that pursuant to Section 15303 (e)(2) of the CEQA Guidelines, that the proposed project is exempt from environmental review. Section 15303 (e)(2) of the CEQA Guidelines exempts projects that involve the minor expansion of existing facilities, if the project is located in an area where all public services and facilities allow for the development permissible under the General Plan, and the property is not environmentally sensitive. The project site is in a fully developed area of San José, has access to all required services, and is not environmentally sensitive.

### **ANALYSIS**

The main issues associated with this Permit are maintaining the existing number of parking spaces and the proposed alternating use parking arrangement. The Church use was instituted prior to the current Zoning Code parking requirements and is legal non-conforming at 107 spaces.

#### **Number of Parking Spaces**

The project proposes a kitchen expansion with no change in the assembly area of the assembly hall; so therefore, no new parking is required to support the expansion. The proposed kitchen expansion will require the relocation of a total of fourteen parking spaces. The parking lot will be re-striped to maintain the existing count of 107 spaces.

Per Section 20.90.170 of the Zoning Ordinance, parking along the northern property line, which is directly opposite a residential district, will be screened with a four foot high wooden fence, and buffered by a five foot wide landscaping strip in front of the fence. This amount of landscaping is less than the ten feet normally required, but is the most that can be provided given the parking lot dimensions and layout, and is

Use	Parking Ratio	Parking Demand	Parking Required	Operation Times
Overall Site			107 available	
Church	1 per 4 fixed seats	450 seats	113 spaces <sup>*</sup>	Saturday and Sunday
Church (weekday services)	1 per 4 fixed seats	40 seats	10 spaces	Monday-Friday, 9 a.m. – 11 a.m.
School	1 per employee	8 employees	8 spaces	Monday-Friday, 7 a.m. – 4 p.m.
Assembly Hall (Cooking and Prep)		20 employees	20 spaces	Monday-Friday 7 a.m. – 4 p.m.; Tuesday and Wednesday starting at 3:30 a.m.
Assembly Hall	1 per 6 linear feet of seating	512 linear feet of seating	86 spaces	Tuesday-Wednesday 4 p.m.- 7 p.m.

<sup>\*</sup> The church use was instituted prior to the current parking requirements and is legal non-conforming at 107 spaces.

The various uses will operate under the Permit at different times during the week, so that parking demand is never greater than the amount of parking available on site. Under the terms of the Permit's alternating use parking arrangement, the various uses will not be allowed to operate simultaneously.

In addition, the site consists of multiple legal parcels so that parking for the various uses occurs on different parcels than the use. The church site is made up of seven different legal lots, and approximately half of the total parking is located on lots other than the Martha's Kitchen lot. Given the church owns all parcels involved in the project, staff believes it is reasonable to assume that the required parking will be available for the life of the assembly and kitchen uses. To further ensure the availability of parking for the life of the religious assembly use, the Permit requires the church to either grant a Covenant of Easement to the City of San José, empowering the City to enforce the shared parking provision, or to combine all of the lots into a single parcel.

## **PUBLIC OUTREACH**

Notice of the Planning Commission hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public.

2. The 2.12 acre project site is located in the R-2 Duplex Residential and CN Neighborhood Commercial Zoning Districts.
3. The site is currently developed with a 450 seat church, an approximately 9,000 square foot classroom building, and an existing 6,700 square foot assembly hall.
4. Surrounding uses are residential to the north, east and west, commercial and residential uses to the south of the site, across Willow Street.
5. Religious Assembly Uses are conditional uses in the R-2 Duplex Residence and CN Neighborhood Commercial Zoning Districts.
6. The project site has a total of 107 on-site parking spaces existing on the subject site.
7. The parking available is provided on different legal lots from the various uses.
8. The Church owns all of the lots on site in the subject application and will either legally combine the lots or provide a Covenant of Easement to the City of San José to insure that all parking is available to the various uses.
9. Hours of operation of the various uses are found in the following table:

Use	Parking Ratio	Parking Demand	Parking Required	Operation Times
Overall Site			107 available	
Church	1 per 4 fixed seats	450 seats	113 spaces*	Saturday and Sunday
Church (weekday services)	1 per 4 fixed seats	40 seats	10 spaces	Monday-Friday, 9 a.m. – 11 a.m.
School	1 per employee	8 employees	8 spaces	Monday-Friday, 7 a.m. – 4 p.m.
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\* The church use was instituted prior to the current parking requirements and is legal non-conforming at 107 spaces.

12. The project will provide a 4-foot high solid wood fence to screen parking from adjacent residential uses, and a 5' wide landscaping buffer strip between the public right-of way and the fence.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The project is consistent with the site's General Plan Land Use Designation of Public/Quasi-Public.
2. Parking will be provided for the proposed assembly hall through an on-site alternating parking arrangement. The parking will be guaranteed either by a lot combination or under a Covenant of Easement to the City of San José.
3. The proposed project complies with all applicable provisions of the Zoning Ordinance.
4. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
4. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and

during the life of the building or use; and

- 3) The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

### CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Martha's Kitchen Addition, 311 Willow Street, San José, California" dated October 31, 2002, last revised March 3, 2003, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).

operate simultaneously. The hours of operation for the two facilities shall remain distinct and in conformance with Zoning Code provisions regulating uses between the hours of 12:00 midnight and 6:00 a.m. Preparation work in the assembly hall kitchen is allowed during weekday church service hours.

6. **Alternating Use Parking Arrangement.** Parking spaces located on all legal lots within the church site shall be available to the operators of the religious assembly use and their clients during the hours that the church is not holding services.
7. **Covenant of Easement.** Pursuant to Chapter 20.110 of the Zoning Code, the applicant shall legally combine the lots or provide a Covenant of Easement to the City of San José for parking and ingress/egress purposes over the properties located at 311 and 325 Willow Street.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This Permit file number, CP 02-067 shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
  - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
9. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-15530) to the satisfaction of the Director of Public Works:



project frontage.

- i. Close unused driveway cuts on Edwards Avenue.
    - ii. Install handicap ramps at the southwest corner of Edwards Avenue and Locust Street, and the southeast corner of Edwards Avenue and Palm Street.
    - iii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
  - d. *Minor Improvement Permit.* The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.
10. **Fire Flow.** The minimum fire flow requirement for the site is 4,500 gallons/minute. The needed fire flow shall be provided from a minimum of four hydrants, spaced an average of 250 feet away from the proposed project. Fire flow may be reduced upon construction of a four-hour wall, without openings, per the adopted fire code. Construction of the area separation wall is subject to review by the Fire Department.
11. **Fire Extinguishing System.** Provide an automatic fire extinguishing system in the grease hood and ductwork. Submit shop drawings to the San José Fire Department for approval. Include plan check number in all correspondence.
12. **Kitchen Fire Extinguishers.** Provide a 40B:C rated fire extinguisher to be mounted in the kitchen for use in conjunction with the fixed fire extinguishing system.
13. **Sprinkler System.** The applicant shall alter the sprinkler system as needed by new partitions, floors, and ceilings. Plans and a permit application shall be submitted to the San José Fire Department's Bureau of Fire Prevention for review and approval before altering the system.
14. **Waste Discharge.** The proposed facility shall conform to the City of San José waste discharge regulations. Any non-domestic wastewater discharge into the sanitary sewer system will require review and approval by Environmental Services Source Control Staff.
15. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours

pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.